1 nothing should happen until the issue is resolved.

- 2 THE COURT: I want to hear -- until I hear
- 3 directly from Mr. Bechtel further on this, those
- 4 depositions of the public witnesses, I want those to
- 5 go forward for the reasons I've stated. I just
- 6 don't -- I really don't see -- when do they start
- 7 next week?
- MR. HUTTON: Wednesday.
- 9 THE COURT: Wednesday.
- 10 MR. COLE: Wednesday.
- 11 THE COURT: Wednesday, is that what you
- 12 said?
- MR. HUTTON: Yes.
- 14 MR. COLE: Yes.
- 15 THE COURT: So you won't be -- so your
- 16 plane is out when, Tuesday?
- 17 MR. COLE: To Reading, you mean the car.
- 18 MR. GILBERT: The helicopter, Your Honor.
- 19 MR. HUTTON: It's a two and a half hour
- 20 drive that I've almost memorized, Your Honor.
- 21 THE COURT: Corporate planes, okay.
- MR. COLE: The off road vehicle.

1 THE COURT: I live in a fantasy world.

- THE COURT: I'll do the best I can, but
- 3 for the time being as of right now today, do not call
- 4 off those public witness depositions.
- 5 MR. COLE: Okay. What I will try to do, I
- 6 checked in with my office before I came over here,
- 7 and Mr. Bechtel was out of the office in a meeting
- 8 which I believe to be ongoing through the morning.
- 9 I'm scheduled to fly out of here this afternoon, as I
- 10 believe Mr. Hutton is, so I'm not sure we'll be able
- 11 to get back to you until Monday morning on that, but
- 12 I will for sure reach out to Mr. Bechtel at some
- 13 point today and tie him down, even if it's at home
- 14 tonight, so we can try to get this resolved first
- 15 thing Monday morning.
- 16 THE COURT: I would expect that we will be
- 17 talking about this at least in a conference, if not
- 18 in court. I think we can start off with a conference
- 19 call.
- MR. COLE: Okay.
- THE COURT: I want to get Mr. Shook in on
- 22 it.

- 1 MR. COLE: Yes.
- 2 THE COURT: Again, I don't want to --
- 3 these arguments are very forceful and I'm impressed
- 4 with them, and I want to consider everything that's
- 5 been said here. But I'm still left with this
- 6 quandary in terms of trying to accommodate these
- 7 public witnesses, and there's absolutely no shred of
- 8 evidence or suggestion that any of these public
- 9 witnesses have a conflict with the Hutton firm, and
- 10 their issue -- the issue that they're going to be
- 11 testifying on, being asked questions about, is a long
- 12 way removed from the intricacies of the business
- 13 connections of principals of the Adams Corporation.
- 14 In fact, that's why they're called public witnesses.
- 15 So what I'm grappling with here is trying
- 16 to accommodate what I think is the public interests
- 17 here, and that is the accommodation of these
- 18 witnesses on a matter that should not impact at all
- 19 on their testimony. But I understand, I understand
- 20 counsel's argument to the contrary, but I want to let
- 21 you all know that that's where I'm leading off today,
- 22 that's my view and I'll listen to more of it on

- 1 Monday.
- 2 MR. COLE: That's fine, and I appreciate
- 3 your time this morning, and if I'm hearing correctly
- 4 that for right now, the Chicago depositions are on
- 5 hiatus.
- 6 THE COURT: Yes, sir.
- 7 MR. COLE: No determination has been made
- 8 as to what, if anything, will happen in the event
- 9 that Holland & Knight will be allowed to stay on the
- 10 case and that the presumption right now in your mind
- 11 is that irrespective of a motion to disqualify or
- 12 whatever else we file on Monday, that the public
- 13 witness depositions will continue to stay on the
- 14 schedule until further notice.
- 15 THE COURT: I see no basis for where those
- 16 depositions are prejudiced by what I'm hearing here
- 17 today right now. Things may change, and I might add
- 18 this also, two things, first of all, anything that
- 19 either party wants to fax to me over the weekend or
- 20 early Monday morning, I will look at it as best I can
- 21 before we talk again, if you think anything is going
- 22 to be helpful, as long as the other side gets a copy

- 1 and knows what you're giving me.
- 2 Secondly, I want Mr. Cole and Mr. Hutton to
- 3 work out or try and work out some kind of a
- 4 procedure, a rapid procedure for getting this issue
- 5 before me and permitting me to decide it. In other
- 6 words, what kind of papers are you going to submit to
- 7 me. I don't think that there's going to be reply
- 8 briefs needed. And I think you want to talk,
- 9 Mr. Cole, with Mr. Hutton and tell him what you
- 10 expect to see in their papers. That's a motion to
- 11 disqualify so, well, I have to back off, it's a
- 12 motion to disqualify. Mr. Cole, you're going to have
- 13 the burden of proceeding on it.
- 14 MR. COLE: Right.
- 15 THE COURT: And whatever the rules provide
- 16 for as far as a round of pleadings, that's what we
- 17 are going to use.
- 18 MR. COLE: Okay.
- 19 THE COURT: But I'd like to see the
- 20 scheduling of it expedited.
- 21 MR. COLE: Actually, Your Honor, it's kind
- 22 of a Sunday morning ritual in our firm where I show

1 up at 7:00 and start writing Adams' pleadings, so I

- 2 expect that's what I'll be doing this Sunday morning,
- 3 so I would hope to have something on your desk Monday
- 4 sometime, ideally by early afternoon.
- 5 THE COURT: That's all we can do is do the
- 6 best we can, all right.
- 7 MR. HUTTON: I have one last scheduling or
- 8 procedural question, when we concluded Mr. Gilbert's
- 9 deposition yesterday, we had some unanswered
- 10 questions with respect to whether or not some areas
- 11 of inquiry were relevant, and you had gone for the
- 12 day. Our intention was to seek a ruling from you on
- 13 those questions today. I take it in light of the
- 14 suspended status of things, we shouldn't even get
- 15 into the issue now of whether or not those areas are
- 16 relevant to this case. I take it that if we do -- if
- 17 my firm does stay in the case and we want to take the
- 18 issue up again, Mr. Cole and I should confer with you
- 19 on that and then if necessary, Mr. Gilbert would be
- 20 among the witnesses whose deposition would be
- 21 continued.
- MR. COLE: We are certainly agreeable to

- 1 that, Your Honor.
- 2 THE COURT: Okay. I hear you, Mr. Hutton,
- 3 yeah. We're just going to have to put everything on
- 4 a freeze as far as the Adams witnesses are concerned,
- 5 principals, et cetera, are going to have to put
- 6 everything on a freeze basis until we get this
- 7 resolved including anything such as you're suggesting
- 8 there. And I will make a determination at the time
- 9 that I make the ruling as to the propriety of
- 10 requiring witnesses to come to Washington some more
- 11 or whatever, except, of course, for the public
- 12 witnesses.
- 13 It's premature to try and resolve anything
- 14 like this today except for scheduling. I don't
- 15 know. Is there anything more that I can add to
- 16 this?
- 17 MR. COLE: I don't think so, Your Honor,
- 18 at this point. Mr. Hutton and I will confer. I will
- 19 try to get a motion to disqualify in writing, I'll
- 20 file on Monday, and we will go from there, and then
- 21 obviously I'll confer with Mr. Bechtel at my earliest
- 22 convenience today when I get to a pay phone at the

1 airport probably and try and track him down and alert

- 2 him to the question of public witnesses and see if he
- 3 has -- if he can articulate a position. If I get to
- 4 him early enough in the afternoon -- well, Tom, what
- 5 time are you flying out?
- 6 MR. HUTTON: I'm scheduled to fly out at
- 7 5:00. I'm going to see if I can get an earlier
- 8 flight.
- 9 MR. COLE: I suspect it will be hard to
- 10 track Mr. Hutton down with Mr. Bechtel and you on the
- 11 phone this afternoon, so I suspect that will be a
- 12 conference call on Monday morning as well.
- 13 THE COURT: All right. If he wants to
- 14 talk to me today, I'll be here until 4:00 D. C. time,
- 15 as long as Mr. Hutton is tapped into it as well.
- 16 MR. COLE: Right. The problem that I see
- 17 is that I'm going to be on the go, Mr. Hutton is
- 18 going to be on the go, and I know that Mr. Bechtel is
- 19 out of the office all morning in a meeting and has a
- 20 client in town and I don't know what his schedule is
- 21 this afternoon, so the likelihood that I would be
- 22 able to find him, alert him to the situation and have

1 him track Tom down, Mr. Hutton down and then get to

- 2 you, I'd like to try and I will try, but I'm doubtful
- 3 that I'll be able to succeed in getting all that to
- 4 come together before 4:00.
- 5 THE COURT: All right. I'm just saying
- 6 that I'm here. In case something does develop, I'm
- 7 here. In fact, I won't even be going out for lunch
- 8 today.
- 9 Let me ask you one question on procedure,
- 10 I'm going to ask counsel to explore amongst
- 11 themselves if -- Mr. Hutton, you don't have to give
- me an answer right now, but I, of course, would very
- 13 much like to see the internal analysis of your firm
- 14 with respect to this question. The question would be
- 15 whether or not, one, I can see that en camera, or if
- 16 not, if it's not -- the nature of it is such that it
- 17 would not -- it just could not accommodate an en
- 18 camera review, would your firm be willing to turn it
- 19 over to me and to opposing counsel with some
- 20 limitations. I think that it could be done so that
- 21 only the -- at least at this stage of the ruling that
- 22 it would not go beyond Adams counsel who are

- 1 representing Adams in this case.
- MR. HUTTON: Your Honor, we did not
- 3 prepare a written analysis.
- 4 THE COURT: Well, then that makes my
- 5 question rather moot, doesn't it?
- 6 MR. COLE: No, makes it real moot.
- 7 MR. GILBERT: Sam Goldwyn once said that
- 8 oral opinion -- oral contract isn't worth the paper
- 9 it's written on.
- 10 THE COURT: Well, unless people act on
- 11 it.
- MR. GILBERT: Right.
- 13 THE COURT: Well, this is going to be
- 14 interesting to see how you do present it to me, but
- 15 I'm obviously going to have to be as informed as I
- 16 possibly can be with respect to how that advice was
- 17 assessed at the firm and how it was transmitted and
- 18 to be sure that it's -- well, you know better than I
- 19 do what's involved right now.
- 20 I'll wait to hear from you Monday morning.
- 21 What I will do is have my legal tech initiate calls
- 22 to everyone, probably to Mr. Cole's office and then

1 ask you, Mr. Cole, to contact the others and arrange

- 2 for the conference call.
- 3 MR. COLE: That will be fine.
- 4 THE COURT: We will let Mr. Shook know
- 5 first thing in the morning.
- 6 MR. COLE: That's fine, Your Honor. One
- 7 last housekeeping question, which I guess is at least
- 8 tangentially related to the current conundrum, and
- 9 that is the question of the Reading Broadcasting Inc.
- 10 minutes, which are when last I saw them sitting in an
- 11 office in Mr. Hutton's office. They were to be
- 12 delivered to you for en camera inspection at some
- 13 point, and as I think I indicated in my renewed
- 14 motion to compel, it wasn't clear from your order, to
- 15 me at least, whether that some point was October 12,
- 16 October 18 or some other time. And I would request
- 17 that the delivery of those minutes to your office be
- 18 required notwithstanding the current situation, that
- 19 it's not a substantive matter. It's something that
- 20 will have to be addressed whether or not Holland &
- 21 Knight is on the case.
- 22 All that is required of them will be the

1 delivery of the minutes to your office, and so I

- 2 would request that that process be completed sooner
- 3 rather than later.
- 4 MR. HUTTON: I'd like to respond to that,
- 5 Your Honor. That analysis is just crazy. What's
- 6 called for -- either we're in the case or we're not
- 7 in the case. What's called for on October 18th is
- 8 not only the en camera production of those minutes,
- 9 but also a pleading responsive to Mr. Cole's pleading
- 10 of October 12th, and Mr. Cole can't have it both
- 11 ways. He can't have us in the case for some
- 12 purposes, but not in the case for other purposes, at
- 13 least based on what I've heard so far.
- 14 MR. COLE: Your Honor, I'm not asking him
- 15 to be in or out of the case as far as that's
- 16 concerned. You have ordered the production of those
- 17 documents or the delivery of those documents to your
- 18 office for your en camera inspection at your leisure
- 19 and convenience.
- 20 I'm not asking you to rule on the
- 21 availability of those until Reading Broadcasting,
- 22 Inc. through whatever counsel it has has an

1 opportunity to respond to the renewed motion to

- 2 compel.
- 3 I do think it's important given the volume
- 4 of the documents, and as I think I indicated in my --
- 5 based on my review, it's about a four or five inch
- 6 stack of papers, most of which are single spaced,
- 7 some of which are difficult to read, that will take
- 8 Your Honor awhile to plow through. I think that the
- 9 sooner Your Honor has the opportunity to do that, the
- 10 better.
- 11 Again, I'm not suggesting that you issue a
- 12 ruling on that before Reading Broadcasting has had
- 13 ample opportunity to respond to it, whether through
- 14 Holland & Knight or through somebody else.
- 15 I'm just saying that you ought to -- the
- 16 issue -- the order has already been issued that the
- 17 documents be delivered, will be delivered, and I see
- 18 no reason why that should be delayed in the meantime.
- 19 THE COURT: I wouldn't -- I certainly --
- 20 simultaneous delivery meant simultaneously with the
- 21 Hutton pleading because since I've read your pleading
- 22 on the motion for the production and I'm expecting

the minutes to come in for me to inspect, I wouldn't

- 2 look at them until I had a chance to see what Reading
- 3 had to say about your motion.
- 4 It's all in the context of that procedure,
- 5 and I wouldn't want to start reviewing those minutes
- 6 without seeing Reading's -- hearing Reading's side
- 7 with respect to what the significance of some, all or
- 8 a few of these things are, the minutes are.
- 9 So in other words, I'm not in the policy of
- 10 conducting a review until I get them formally
- 11 delivered to me by Mr. Hutton, by the Reading
- 12 attorneys along with their response to your
- 13 pleadings.
- 14 So if you want to do that on Monday, that's
- 15 when it's due, that was the date I set and you have
- 16 no objection to me doing that, Mr. Cole, then I will
- 17 receive the minutes with Mr. Hutton's responsive
- 18 pleading, otherwise there's no sense in my looking at
- 19 them.
- 20 MR. HUTTON: Your Honor, I can't believe
- 21 what I am hearing from Mr. Cole. On the one hand his
- 22 client is claiming that all bets are off and Holland

1 & Knight is totally disqualified from proceeding in

- 2 this case.
- On the other hand, he seems to be
- 4 suggesting that we should stay in the case for
- 5 purposes of producing minutes and analyzing minutes
- 6 and presenting pleadings related to those minutes,
- 7 and I just think he cannot have it both ways.
- 8 MR. COLE: Your Honor, that's completely
- 9 inconsistent with what I just said. I'm sorry to
- 10 hear Mr. Hutton say that.
- I have not said that Holland & Knight
- 12 should be left in the case. All that I'm saying is
- 13 that Your Honor has issued -- the question -- the
- 14 existence of the minutes created by Reading
- 15 Broadcasting is not disputed at this point.
- 16 Everybody knows it's out there. The only question is
- 17 should those minutes be produced and provided copies
- 18 to Adams Communications Corporation.
- 19 Your Honor has focused on that and has
- 20 said, okay, fine there is a dispute, Adams can file a
- 21 piece of paper, Reading can file a piece of paper,
- 22 and in order for me to assess all of that, I'll need

1 to look at the documents. You therefore ordered that

- 2 the documents be produced and be produced to you for
- 3 your en camera inspection, the originals be delivered
- 4 to your office for your inspection.
- 5 All I'm suggesting is that it is important,
- 6 even if you don't start looking at it, for those
- 7 documents to be delivered to your office on Monday
- 8 morning. You can leave them in an envelope. You can
- 9 leave them sealed up. I don't particularly care.
- 10 It is a ministerial function, not a
- 11 representative function as I see it that Holland &
- 12 Knight would be doing, it's calling a courier service
- 13 and having a courier service pick up the envelope and
- 14 taking them to your office, period. And then when
- 15 the issue of their representation is resolved, they
- 16 can file a response, some other law firm can file a
- 17 response, Reading can file a response pro se, and at
- 18 that point you can unseal the envelope, look at the
- 19 documents and move forward. But I see no reason to
- 20 delay the process of delivering the minutes to your
- 21 office.
- 22 THE COURT: Well, I don't see any reason

1 for my having the minutes if I can't look at them.

- 2 It doesn't make any sense to me at all.
- 3 There is a renewed motion to compel for
- 4 production of documents that I was given on October
- 5 12th as you were required to do. It's an -- I'm
- 6 counting the pages now. It's a seven page renewed
- 7 motion with footnotes, with some articulated argument
- 8 as to why minutes should be delivered to you for your
- 9 use in the case.
- 10 MR. COLE: Right.
- 11 THE COURT: As the Knight file is today, I
- 12 have ordered that there be a response to that by the
- 13 18th, which is Monday, and that if I have to look at
- 14 the documents, I'm going to look at them along with
- 15 that responsive pleading.
- 16 MR. COLE: Your Honor, you're going to
- 17 have to look at the documents anyway because of my
- 18 pleading, and you have already ordered the delivery
- 19 of the documents.
- 20 MR. HUTTON: Your Honor --
- 21 THE COURT: What is my order -- I don't
- 22 have the order right in front of me.

1 MR. HUTTON: Your Honor, the order --

- THE COURT: I have ordered --
- 3 MR. HUTTON: The order did call for
- 4 simultaneous production of the documents with our
- 5 response to Mr. Cole's pleading.
- 6 THE COURT: There's no sense in my -- I'm
- 7 not going to look at those minutes until I see the
- 8 responsive pleadings from Reading's counsel. Your
- 9 argument, Mr. Cole, is that, well, that I should just
- 10 get these in a sealed envelope and let them sit
- 11 until --
- MR. COLE: That's correct, Your Honor.
- 13 THE COURT: -- I do hear from whoever is
- 14 going to be Reading's counsel.
- MR. COLE: Right.
- 16 THE COURT: Doesn't make any sense to me.
- 17 MR. COLE: Your Honor, from my point of
- 18 view it's for safekeeping.
- 19 THE COURT: Well, I don't think that
- 20 that's -- I just don't think that that is the most
- 21 efficient use of my time and efforts on this.
- 22 MR. COLE: Your Honor --

1 THE COURT: I think that those minutes

- 2 aren't going to go anyplace.
- 3 MR. COLE: Your Honor, my problem is that
- 4 you let me look at the minutes, I looked at the
- 5 minutes. You did not let me take substantial or
- 6 extensive notes. You did not let me quote from
- 7 them. I know what's in the minutes. I personally
- 8 think the minutes have a lot of information which is
- 9 directly relevant to the case and that should be
- 10 produced.
- Now, my problem is at this point since I
- 12 don't have copies, I just have knowledge of what's in
- 13 them, if something were to happen to the minutes, I
- 14 have no way of proving what I saw was what I saw.
- 15 If on the other hand, you were sitting on
- 16 them in a sealed envelope, I would feel much more
- 17 comfortable about it.
- 18 MR. HUTTON: Your Honor, I resent the
- 19 implication that Mr. Cole is presenting that we would
- 20 destroy documents. They're sitting in an office, in
- 21 my offices. They are tabbed with various tabs that I
- 22 don't think you would understand without an

1 accompanying pleading. Those tabs relate to which

- 2 documents are relevant or disputed.
- And I agree with your analysis, there's no
- 4 point in producing them, and I further believe that
- 5 it's inconsistent with Mr. Cole's claim that we are
- 6 totally disqualified from being in the case.
- 7 THE COURT: Well, this is my
- 8 determination, you're ruled on, and I'll tell you
- 9 again what it is, I now have the order in front of me
- 10 and my order of 99 M-57, which was released on
- 11 October 5th, I say under that portion of the minutes,
- 12 that requested minutes that are not released, Adams
- 13 shall be subject to further motion, if necessary.
- 14 The motion to compel must be filed by October 12th,
- 15 which Mr. Cole has done, and any opposition must be
- 16 filed by October 18th. Copies of the contested
- 17 minutes shall be submitted simultaneously en camera
- 18 for a determination by the undersigned.
- 19 Now, I don't know how there could be that
- 20 much confusion about what I said there, what I wrote
- 21 there. I obviously want simultaneously to be able to
- 22 look at the pleadings, the positions of both parties,

- 1 both lawyers at the time that I am reviewing them en
- 2 camera. So since the documents are in the custody of
- 3 Reading, obviously it would be simultaneously with
- 4 Reading's pleading that they would come to me. And
- 5 that's the way I ordered it, and that's the way it
- 6 is.
- 7 When Reading files an opposition to the
- 8 motion, they are required to present to me the
- 9 minutes for my inspection en camera. If you want to,
- 10 Mr. Cole, if you want to accommodate this by waiving
- 11 any objection to Mr. Hutton or Mr. Hutton's firm
- 12 preparing that responsive pleading and delivering the
- 13 documents to me, I have no problem in receiving it
- 14 that way.
- MR. COLE: I'll have to confer with my
- 16 client about that, Your Honor.
- 17 THE COURT: Otherwise, I'm not going to
- 18 just have these documents delivered to me for
- 19 safekeeping. I don't think that -- there has never
- 20 been a motion for a protective order in this case and
- 21 that's essentially what you're asking for. And I
- 22 think that Mr. Hutton is well within his rights to

1	object to that, unless there's some showing, some
2	inference that there's not going to be responsibility
3	exercised with respect to those minutes in the
4	custody of Mr. Hutton's law firm. So let's leave it
5	at that for that now. We will take it up Monday
6	morning.
7	MR. COLE: Thank you.
8	THE COURT: Thank you, gentlemen.
9	MR. HUTTON: Thank you, Your Honor.
10	(Which were all the proceedings had in
11	the above-entitled matter, at the time and
12	place aforesaid.)
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21

1	STATE OF ILLINOIS)
2) SS:
3	COUNTY OF OGLE)
4	
5	I, Renee E. Brass, Certified Shorthand
6	Reporter of the State of Illinois, do hereby certify
7	that I reported in shorthand the proceedings had at
8	the taking of said hearing, and that the foregoing is
9	a true, complete, and accurate transcript of the
10	proceedings at said hearing as appears from my
11	stenographic notes so taken and transcribed under my
12	personal direction and signed this 22nd day of
13	October, 1999.
14	
15	
16	
17	RENEE E. BRASS
18	
19	My Commission Expires:
20	
21	February 7, 2001.
2.2	

CERTIFICATE OF SERVICE

I, Ellen Wallace, a secretary in the law firm of Holland & Knight, LLP, do hereby certify that on November 2, 1999, a copy of the foregoing MOTION TO DISMISS ADAMS' APPLICATION, OR ALTERNATIVELY, TO ENLARGE ISSUES (ABUSE OF PROCESS) was delivered by hand to the following:

The Honorable Richard L. Sippel Chief Administrative Law Judge Federal Communications Commission 445 12th Street, S.W., Room 1-C864 Washington, DC 20554

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